

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

OCT 29 2009

FILED

STATE OF NEBRASKA	)	
DEPARTMENT OF INSURANCE,	)	
	)	CONSENT ORDER
PETITIONER,	)	
	)	
VS.	)	CAUSE NO. A-1850
	)	
KYMBERLY D. BENNING,	)	
	)	
RESPONDENT.	)	

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its attorney, Janette L. Adair, and Kymberly D. Benning ("Respondent"), mutually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondent pursuant to Neb. Rev. Stat. §§ 44-101.01, and 44-4047 et seq. (Reissue 2004).
2. Respondent was a licensed insurance producer under the laws of the State of Nebraska at all times material hereto.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a petition styled State of Nebraska Department of Insurance vs. Kymberly D. Benning, Cause Number A-1850 on September 25, 2009. A copy of the petition was served upon the Respondent at the Respondent's business address registered with the Department by certified mail, return receipt requested, and at Respondent's last known address via regular US mail.

Respondent violated Neb. Rev. Stat. §§ 44-1525(11) and 44-4059(1)(b) (Reissue 2004) as a result of the following conduct:

- a. On or about April 10, 2009, Barbara L. Ems ("Ems"), Insurance Investigator of the Consumer Affairs Division for Petitioner, sent a written inquiry to Respondent at her registered business address, via regular U.S. mail, requesting a response regarding an insurance investigation. The letter specifically stated, "Nebraska Revised Statute 44-1525(11) requires response within fifteen working days." On or about May 4, 2009, Petitioner received a written response from Citifinancial advising that Respondent was formerly an employee of Citifinancial but left the position about six months prior, and that Citifinancial was not responding on behalf of Respondent. Ems did not receive a response from Respondent until July 17, 2009.
- b. On or about April 23, 2009, Ems sent a written inquiry to Respondent at her registered home address, via certified mail, requesting a response regarding an insurance investigation and notifying Respondent of the penalty for failure to inform the director of a change of address. The letter specifically stated, "Nebraska Revised Statute 44-1525(11) requires response within fifteen working days." On or about May 18, 2009, the letter was returned to the Department by the U.S. Postal Service marked "UNCLAIMED" and "NOTIFY SENDER OF NEW ADDRESS, BENNING, 5805 SPRAGUE ST, OMAHA, NE 68104-2880." Ems did not receive a response from Respondent until July 17, 2009.
- c. On or about May 19, 2009, Ems sent a written inquiry to Respondent at 5805 Sprague St, Omaha, NE 68104-2880, via certified mail, requesting a response regarding an insurance investigation and notifying Respondent of the penalty for failure to inform the director of a change of address. The letter specifically stated, "Nebraska Revised Statute 44-1525(11) requires response within fifteen working days." On or about June 8, 2009, the letter was returned to the Petitioner by the U.S. Postal Service marked "UNCLAIMED. Ems did not receive a response from Respondent until July 17, 2009.
- d. On or about June 8, 2009, Ems sent a written inquiry to Respondent at 5805 Sprague St, Omaha, NE 68104-2880, via regular U.S. mail, again requesting a response regarding an insurance investigation, and enclosing a copy of the prior correspondence sent to Respondent by Ems. The letter specifically stated, "Failure to completely respond by July 3, 2009, will result in a referral to the Department's legal division for action against your agent's license." Ems did not receive a response from Respondent until July 17, 2009.

3. Respondent violated Neb. Rev. Stat. § 44-4054(8) (Reissue 2004) as a result of the following conduct:

- a. Respondent's business address changed from Citifinancial, 9535 Q St, Omaha, NE 68127, approximately six months prior to May 1, 2009.

To date, Respondent has failed to notify Petitioner of a change of business address.

- b. Respondent's home address changed from 6718 N. 107<sup>th</sup> Plz, Omaha, NE 68122, prior to April 27, 2009. To date, Respondent has failed to notify Petitioner of a change of home address.

4. Respondent was informed of the right to a public hearing. Respondent waives that right, and enters into this Consent Order freely and voluntarily. Respondent understands and acknowledges that by waiving the right to a public hearing, Respondent also waives the right to confrontation of witnesses, production of evidence, and judicial review.

5. Respondent admits the allegations stated in Paragraphs 2 and 3.

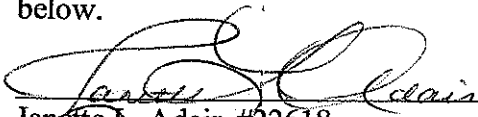
#### CONCLUSIONS OF LAW

Respondent's conduct as alleged above constitutes a violation of §§ 44-1525(11), 44-4059(1)(b), and 44-4054(8) (Reissue 2004).

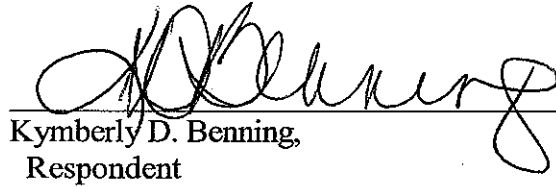
#### CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed by Respondent Kymberly D. Benning, that Respondent shall PAY an administrative fine in the amount of one thousand dollars (\$1,000.00) due within 30 days after the Director of Insurance or her designee approves and signs this consent order. If Respondent fails to pay the amount required under this consent order, within the time specified, the Respondent's insurance producer license shall automatically be revoked. In witness of their intention to be bound by

this Consent Order, each party has executed this document by subscribing their signature below.

  
Janette L. Adair, #22618  
Attorney for Petitioner  
941 "O" Street, Suite 400  
Lincoln, NE 68508  
(402) 471-2201  
10-26-09

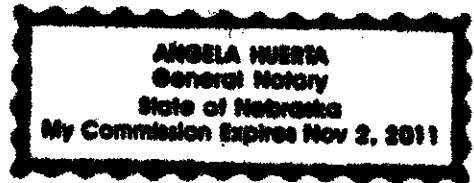
Date

  
Kymberly D. Benning,  
Respondent


Date

10/21/09

State of Nebraska )  
County of Douglas ) ss.




On this 21 day of October, 2009, Kymberly D. Benning personally appeared before me, read this Consent Order, executed the same, and acknowledged the same to be her voluntary act and deed.

  
Notary Public

#### CERTIFICATE OF ADOPTION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance v. Kymberly D. Benning, Cause Number A-1850.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

  
ANN M. FROHMAN  
Director of Insurance

10/29/2009  
Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Consent Order was served upon Respondent by mailing a copy to Respondent at 5805 Sprague St, Omaha, NE 68104-2880, by certified mail, return receipt requested, on this 29 day of October, 2009.

Heary A. Thuma